

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 14-3017 (DSD/FLN)

Annette Elmore,

Plaintiff,

v.

ORDER

City of Chicago, Board of Education (A corporation), a body of politic, David Vitale, Barbara Byrd-Bennett, Rham Emanuel, in their Individual and Official Capacity, both Severely and Jointly,

Defendants.

This matter is before the court upon the objections by pro se plaintiff Annette Elmore to the August 15, 2014, report and recommendation of Magistrate Judge Franklin L. Noel. In his report and recommendation, the magistrate judge recommended (1) denying the application for leave to proceed in forma pauperis (IFP), (2) denying the motion for preliminary injunction and (3) dismissing the action summarily pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Specifically, the magistrate judge found that the Northern District of Illinois was the proper venue for this matter and that there were two duplicative actions already pending in that district. Elmore objects.

The court reviews the report and recommendation de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b).

Elmore argues that the magistrate judge exceeded his authority by recommending denial of the IFP and summary dismissal. When considering an application for IFP, however, the magistrate judge may recommend dismissal of the case at any time if "the action ... fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e) (2) (B) (ii). Given the duplicative nature of this action and the improper venue, the magistrate judge did not err in recommending dismissal. Therefore, after a de novo review of the file and record, the court finds that the report and recommendation is well-reasoned and correct. Accordingly, **IT IS HEREBY ORDERED** that:

1. The objections [ECF No. 5] to the report and recommendation are overruled;
2. The report and recommendation [ECF No. 4] is adopted in its entirety;
3. The application to proceed IFP [ECF No. 2] is denied;
4. The motion for preliminary injunction [ECF No. 3] is denied;
5. This action is dismissed pursuant to 28 U.S.C. § 1915(e) (2) (B) (ii).

LET JUDGMENT BE ENTERED ACCORDINGLY

Dated: August 28, 2014

s/David S. Doty
David S. Doty, Judge
United States District Court